



not compliant because, "claims 1-35 were originally filed on 10/31/2003 and claims 22-35 were drawn to the set of non-elected claims from the restriction requirement of 06/26/2007. However in the response filed 9/28/2008, originally filed claim 35 disappeared and new claims 35-49 (which corrected the non-compliant set of claims filed on 3/4/2008) were filed."

The Examiner has requested that claims be correctly numbered in ascending numerical order by including the original claim 35 and then adding any new claims starting with claim 36. In addition, the Examiner has noted that some of the newly added claims (filed on 9/2/2008) are improperly dependent, such as (new claim 48 which is dependent on claim 48.

The undersigned notes that this application was originally filed on 10/31/2003 with a total of no more than 34 claims. Subsequently, via response and amendment of Feb 29, 2008, claims 2, 4 and 22 – 34 were cancelled and new claims 35 -50 were added. The undersigned cannot find any indication that claim 35 has ever disappeared. It is suggested that perhaps there is a misunderstanding as to how many claims were originally filed in this case. With this in mind, it is believed that the amendment and response filed herein on February 29, 2008 accurately represents the body of claims filed, cancelled, amended and added in the present case. In short, of the original 34 claims filed, 9 have been amended; 15 have been cancelled; and 10 original claims remain. In addition NEW claims 35 – 50 have been added.

With respect to the indications of improper dependency, particularly, the dependency of new claim 48, the undersigned notes that claim 48, as submitted, depends from amended claim 1 (and not from claim 48 as suggested in the office action). Review of the claims as submitted February 29, 2008 does not reveal any apparent problems with the dependency of other claims.

In view of the above, it is believed that all issues of non-compliance have been resolved previously. In addition, it is believed that the dependency of the pending claims is proper, as no apparent problems are evident to the undersigned. Reconsideration, acceptance and entry of the previously submitted claim amendments is respectfully requested.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (678) 352-0103.

Respectfully submitted,

Biddle & Associates, P.C.

By: 

Robert P. Biddle

(Reg # 35, 826)